shipments of oil. The railroad brought suit to enjoin this order and a federal court issued the writ. *Held*, that the order was *ultra vires*, and the injunction was properly issued. *United States* v. *Pennsylvania R. Co.*, U. S. Sup. Ct., Oct. Term, 1916, Nos. 340 and 341.

For a discussion of this case, see NOTES, p. 381.

INTERSTATE COMMERCE — RECOVERY IN STATE COURT FOR INDIRECT DAMAGE TO BUSINESS DUE TO ILLEGAL OVERCHARGE — FEDERAL REMEDY EXCLUSIVE. —The defendant railroad, in interstate business, collected from the plaintiff a charge in excess of that provided for by the Interstate Commerce Commission. As reparation therefore, the commission had ordered the railroad to pay the plaintiff $6198, which was done. The present action is brought in a Kentucky court under the common law to recover for additional damage done the plaintiff's business as a result of the overcharge. *Held*, that the plaintiff cannot recover. *Louisville, etc. R. Co.* v. *Ohio Valley Tie Co.*, U. S. Sup. Ct., Oct. Term, 1916, No. 66.

It is axiomatic that where Congress, under the power reserved to it in the federal Constitution, legislates in regulation of interstate commerce, the laws of the several states covering the same field, whether formally abrogated or not, cease to have any force. See *Gibbons* v. *Ogden*, 9 Wheat. (U. S.) 1, 210; *Missouri, etc. Ry. Co.* v. *Haber*, 169 U. S. 613, 626; *Reid* v. *Colorado*, 187 U. S. 137, 146. The sole question presented by the principal case is whether or not Congress has by the Interstate Commerce Act taken over the entire field of relief for violations of that Act, or has provided merely for the refunding of the overcharge and certain penalties, leaving to the several states the matter of redress for general damage resulting to the plaintiff's business. The Supreme Court of Kentucky took the latter view. *Louisville, etc. R. Co.* v. *Ohio Valley Tie Co.*, 161 Ky. 212, 170 S. W. 633. By § 8 of the Act it is provided that in case of a violation of its provisions "such common carrier shall be liable . . . for the full amount of damages sustained in consequence of any such violation." And § 9 provides that the remedy is to be sought before the Commission or a federal court. So it has been held that the Commission has jurisdiction to give whatever damage the plaintiff has actually suffered. *Pennsylvania R. Co.* v. *International Coal Mining Co.*, 230 U. S. 184, 202, 203; *Meeker* v. *Lehigh Valley Coal Mining Co.*, 236 U. S. 412, 429. And the Act, and not the common law, determines the extent of the damages. *Pennsylvania R. Co.* v. *Clark Brothers Coal Mining Co.*, 238 U. S. 456, 472. And § 16 further provides that in case an order by the Commission to pay money remains unpaid, suit thereon may be brought in a state court, inferentially declaring that suit would not lie where the order had been performed. These sections seem to indicate a clear purpose by Congress to commit to the Commission and federal courts the entire field of redress for violations of the Act.

JUDGMENTS — *RES JUDICATA* — CRIMINAL LAW — FORMER JEOPARDY — JUDGMENT ON PLEADING A BAR TO SECOND PROSECUTION. — A defendant, indicted for conspiracy to violate the Federal Bankruptcy Act, pleaded the special statute of limitations provided in that act. The plea was sustained. A later decision, in other proceedings, took the offense of conspiracy outside the operation of this special bar. A second indictment being brought, the defendant pleaded in bar the earlier judgment in his favor. The lower court sustained this plea. The government thereupon brings a writ of error. *Held*, that the plea was good. *United States* v. *Oppenheim*, U. S. Sup. Ct., Oct. Term, 1916, No. 412.

Except under statutes, no similar case on a judgment on a plea to the indictment seems to have arisen. It has been held, however, that a new indictment is not barred by a judgment sustaining a demurrer going to the merits